

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT BURNHAM and MICHAEL ASHKER, in both his individual capacity and in his capacity as the Sellers Representative under the Parties' May 5, 2023 Membership Interest Purchase Agreement,

Plaintiffs,

v.

COMPASS MINERALS INTERNATIONAL, INC. and COMPASS MINERALS AMERICA, INC.,

Defendants.

No. 25 Civ. 3892 (RMB) (OTW)

DECLARATION OF MICHAEL ASHKER

I, Michael Ashker, do hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. In or around 2018, Robert Burnham and I began working together, eventually co-founding Fortress North America LLC ("Fortress" or the "Company"), which we developed into an industry leader in the design, manufacturing, and distribution of aerial fire retardants used in the fighting of wildfires.

2. I initially served as the Chief Financial Officer and Head of Business Strategy of Fortress, before transitioning to the roles of Chief Operating Officer and Vice President of Finance. I also served on the Fortress Board of Directors through 2023. As of 2018, I owned approximately 19% of the Company.

3. With only a handful of competitors, this specialty aerial wildfire fire retardant industry is quite small. After years of hard work developing and growing Fortress' brand, in 2022, Fortress became the first new company in over two decades to have its products added to the U.S. Forest Service's Qualified Products List. To this day, Fortress remains one of only two aerial wildfire fire retardant companies to have similar products included on that list.

4. After self-financing Fortress through its seed stage, Compass Minerals International, Inc. and Compass Minerals America, Inc. (together, "Compass") became our first outside strategic investor in 2019. Compass eventually purchased additional ownership in October of 2021 and became an approximate 45% owner. They acquired the remainder of Fortress on May 5, 2023, through a Membership Interest Purchase Agreement (the "MIPA"). As per the MIPA, I agreed to serve as the "Sellers Representative," acting on behalf of the group that was selling the remaining shares of Fortress to Compass, which included early seed-stage investors and most of our employees who helped build the company.

5. Understanding the critical nature of maintaining our entrepreneurial culture, Robert Burnham and I insisted that the MIPA include a requirement that Compass operate Fortress as a separate brand under its own name for a period of at least two years. The logic behind this clause was for the long-term benefit of the company. We had developed meaningful contacts and relationships throughout the wildfire-fighting community, and all parties believed that maintaining that identity was good for the future of the business. The MIPA memorialized this in order to preserve the goodwill and client relationships that Fortress had fought so hard to create. This clause was one of the pillars of the MIPA. We would not have agreed to sell Fortress to Compass without this provision in the MIPA.

6. Additionally, to ensure that Fortress continued to maintain strong leadership, I agreed, at Compass' insistence, to execute a new two-year employment agreement pursuant to which I would remain as an executive officer at Fortress as the COO and Director of Finance. The two years gave us the runway to secure major long term contracts with the US Forest Service, Cal-Fire, and even expand into some foreign markets.

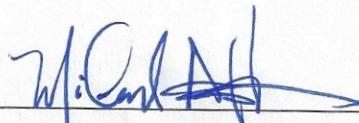
7. It was then, and remains now, very important to me that Fortress' business continues to operate and realize its full potential. This Company was a labor of love and reflects directly on my reputation as an entrepreneur in the tight-knit fire-retardant industry. Accordingly, Robert Burnham and I negotiated with Compass for a provision in the MIPA that, should Compass breach the MIPA, we are entitled to have a court intervene and force Compass to honor its contractual obligation to continue operating Fortress as a going concern. There is no amount of monetary damages that could compensate for the destruction of a Company that Robert Burnham and I, together with our talented and loyal employees, worked so hard to build.

8. Unfortunately, Compass breached the MIPA mere months after closing the transaction. Rather than operating Fortress as its own brand—as the MIPA required—Compass folded nearly all of Fortress' operations into the Compass infrastructure and corporate brand. This included eliminating Fortress' independent email, removing the branded website, taking over all marketing and social media, and terminating many of its employees. Robert Burnham and I were then removed from the Company that we built. Compass first stripped me of my day-to-day authority as COO, and then terminated me without cause on October 13, 2023. Compass replaced me with one of its own employees, who had no experience in the fire retardant industry at all.

9. On March 25, 2025, Compass announced its decision to shut down Fortress entirely. This was extremely distressing news. Robert Burnham and I repeatedly reached out to

Compass on behalf of the Sellers Group in hopes of resolving this dispute. Fortress' business could still be salvaged if Compass would agree to honor the MIPA. We believed that we were making progress with Compass toward a resolution, when on May 2, 2025, discussions were stopped. On May 5, 2025, Compass informed me that it had entered into an exclusive 20-day period with a third party for the purchase of Fortress and/or substantially all of its assets. This 20-day period is set to end on Thursday, May 22, 2025, so a sale appears to be imminent. After additional attempts to resolve our dispute in good faith, we filed this motion for a temporary restraining order and preliminary injunction in hopes of salvaging Fortress and having it once again run as its own independent brand in a good faith manner, as required by the MIPA.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief, and that this Declaration was executed on May 20, 2025.

By: 
Michael Ashker